



JACQUELYN L. LEE
CHIEF DISTRICT COURT JUDGE
JUDICIAL DISTRICT II
HARNETT, JOHNSTON & LEE COUNTIES

KIMBERLY W. JEFFREYS
TRIAL COURT COORDINATOR
919-209-5452
MARK TEACHEY
VETERANS TREATMENT COURT TCC
910-814-4515

LILLIE TAYLOR
JUDICIAL ASSISTANT II
919-209-5453

CAMERON JOHNSON
JUDICIAL ASSISTANT II
919-209-5461

DISTRICT COURT JUDGES
JIMMY L. LOVE, JR.
O. HENRY WILLIS, JR.
ADDIE HARRIS RAWLS
RESSON O. FAIRCLOTH
ROBERT W. BRYANT, JR.
PAUL A. HOLCOMBE, III
CARON H. STEWART
MARY H. WELLS
JOY A. JONES
J. FRANKLIN WOOD, JR.

P.O. BOX 811, 207 E. JOHNSTON STREET
SMITHFIELD, NC 27577
O 919-209-5450 | F 919-209-5490

**ADMINISTRATIVE ORDER
ELEVENTH JUDICIAL DISTRICT
HARNETT, JOHNSTON and LEE COUNTIES**

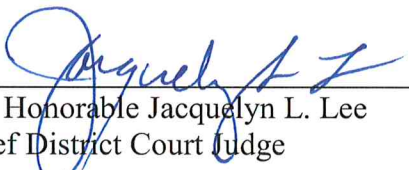
ADDENDUM TO DOMESTIC COURT RULES

NOW COMES the undersigned, Chief District Court Judge of the 11th Judicial District, pursuant to the Administrative authority of the District Court and the office of the Chief District Court Judge, it appearing that the following Addendum to Domestic Court Rules for the District is necessary to administer and manage the efficient flow of domestic cases in the 11th Judicial District and to effectuate the purposes set forth in such rules.

IT IS THEREFORE ORDERED that effective **April 16, 2018**, for all cases pending and filed on or after such date, these Domestic Court Rules as amended are hereby adopted and placed into effect.

IT IS FURTHER ORDERED that any previously adopted Domestic Rules for this District remain in effect unless specifically revised by this addendum.

Date: April 9, 2018



The Honorable Jacquelyn L. Lee
Chief District Court Judge

JLL/kwj
Attachment

ADDENDUM NO. 1

Pretrial Conference Rules For Family Law Cases* -11th Judicial District

(*These Rules do not apply to Equitable Distribution Actions. There are separate Pretrial Conference Rules that apply to Equitable Distribution actions.)

I. When a Pretrial Conference and Pretrial Order are Required:

A Pretrial Conference shall be held and a Pretrial Order thereafter shall be filed in all family law cases that:

- a) are set for hearing on the Red or Blue Calendar or
- b) are given priority or special settings by the Chief District Court Judge's Office or
- c) exceed four hours in duration or
- d) in the discretion of the presiding judge are ordered for good cause.

In all other civil domestic matters the Court may dispense with or limit the scope of the Pretrial Conference or Pretrial order on its own motion or request from any party.

II. Preparation of Pretrial Orders

All parties shall initially exchange necessary pretrial information. As such, each party shall provide the other party with a list of the witnesses who will or may testify at trial as well as a list of the exhibits that will or may be introduced at trial. The parties shall exchange these lists simultaneously and not later than 14 days prior to trial. Thereafter a pretrial conference will be held between five and ten days prior to trial so that the pretrial order may be entered by the court. If the parties consent to the terms of the pretrial order and a conference with the presiding judge is not needed, the parties shall submit the pretrial order between five and ten days prior to trial.

When a case qualifies for the entry of a pretrial order as set forth herein, the moving party shall prepare the initial draft of the pretrial order upon exchange of the pretrial information between the parties; this shall be timely served by mail, fax, or email on the opposing party. The "moving party" shall be defined as the party who first filed the claim pending before the court or who has requested by motion a particular matter be addressed.

The opposing party shall thereafter submit any requested revisions to the pretrial order to the moving party by mail, fax or email.

The attached **DR FORM K** is the pretrial order that shall be used in all non-equitable distribution cases (a separate pretrial order is utilized in ED cases).

III. Pretrial Conference

- a. Not less than 5 to 10 days prior to trial, the parties shall conference with the Judge assigned to hear the case to review the pretrial order and thereafter the Presiding Judge shall enter the order and the same shall be filed. The formal conference can be waived if the parties submit the pretrial order to the presiding

judge by consent. The parties or their attorneys shall sign the pretrial order that is submitted to the Court by consent.

- b. Pretrial Conference dates shall be ordered by the Court in all matters set on the Red or Blue Calendar or for matters specially set by Order of the Chief District Court Judge. The pretrial conference date shall be set by the Court simultaneous with the entry of any order placing a matter on the Red or Blue Calendar (DR Form I) or special setting (DR Form J). In all other matters the moving party shall cause a notice of hearing to be issued and served on the opposing party for the pretrial conference.

IV. Notice Requirements

- a. In that the pretrial order is designed to facilitate more efficiency at trial by having parties identify in advance of trial their witnesses and exhibits, there exists the possibility of perceived or actual unfairness that may be created from a party's failure to disclose witness and exhibit information on the pretrial order at the times set forth in Section II. In order to avoid such unfairness neither the moving party nor the responding party shall be allowed to introduce witnesses or exhibits known to him/her or that should have been known to him or her, with due diligence, at the time when the pretrial order is prepared and responded to thereafter, unless the parties agree in writing otherwise.
- b. If a party contends that he or she legitimately only learned of a witness or exhibit after the pretrial order is prepared or filed and prior to trial, he or she shall immediately disclose to the opposing party the name of the witness(es) and/or a copy of the exhibit(s). In such instances, assuming the parties do not otherwise agree, the Court, shall:
 - i. Determine if the newly discovered witness or exhibit could have reasonably been known or determined in a timely fashion so as to be identified on the proposed pretrial order at the times set forth in Section II;
 - ii. Determine if the newly discovered witness may testify or if the newly found evidence/exhibit shall be allowed at trial;
 - iii. Determine whether a continuance of the trial is warranted so as to allow the opposing party ample time to consider the newly discovered witness and evidence, as an alternative to excluding such from introduction at the trial. The opposing party shall be allowed to thereafter submit additional witnesses or evidence to rebut the newly discovered witness or information/exhibit. If a case is continued under this scenario the Court shall order another pretrial order to be prepared by the party requesting the testimony of a new witness(es) or introduction of newly discovered exhibit(s). Thereafter a subsequent pretrial conference shall be held at a date set by the court and not less than 10 days prior to any new or later trial date.
 - iv. As an alternative to a continuance of the initial setting when the Court allows the new witness or exhibit to be used at trial, the Court may allow the matter to be held open until a later trial date so as to afford the opposing party an opportunity to present rebuttal evidence to address the

information brought before the court through the newly discovered witness(es) or exhibit(s).

- v. Consider whether sanctions to include award of attorney's fees and court costs to the opposing party is appropriate.

- c. In those instances when a matter is not concluded at its initial setting and a significant delay occurs between court dates so that new evidence is generated by events that occur between hearing dates the Court may order subsequent pretrial conferences not less than 10 days prior to the subsequent hearing dates and the parties shall prepare subsequent pretrial order(s) to supplement the initial pretrial order. The same time deadlines for preparation of any subsequent pretrial order shall apply as set forth in Section III unless the parties agree otherwise or different timelines are set by the presiding judge for good cause.
- d. Discovery should be done promptly and it should be propounded within 120 days of the date of the last required pleading; the Court however can enlarge or shorten the time for good cause shown. Counsel or parties should not be permitted to wait until the pretrial conference is imminent to initiate discovery without good cause.

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ADDENDUM NO. 2

Time limits on temporary hearings

Presumptive time limits on temporary hearings shall be as follows: One (1) hour for emergency returns, post separation support, and non IV-D temporary child support; Two (2) hours for temporary custody hearings. The Court however can enlarge or shorten the time for good cause shown.

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ADDENDUM NO. 3

RULE 1.5-1. RED CALENDAR RULES.

Rule 1.5-1(B)(1) of the local domestic rules is hereby revised to read as follows:

1. **By consent of the parties.** Consent to Red Calendar placement is shown as follows:
 - a. An Order for Setting on Red/Blue Calendar (**DR Form I**) signed in court by both parties and/or their counsel of record and the presiding judge.

Rule 1.5-1(C)(2) of the local domestic rules is hereby revised to read as follows:

2. Cases may be scheduled as Red Calendar back-up cases as long as they meet the criteria listed in section A herein above. All parties involved in a case in a back-up position shall be available to the court when called and ready to proceed.

Rule 1.5-1(C)(6) of the local domestic rules is hereby revised to read as follows:

6. The presiding judge has the authority to set any case on the calendar for that session anytime during the two (2) or three (3) day session, EXCLUDING Red Calendar cases. Any attorney/party who has a case on the regular Monday (Harnett & Johnston) or Wednesday (Lee) calendar MUST be prepared to hear his/her case at any time during the session as a back-up to Red Calendar cases that settle before trial or that finish early. The attorneys and the parties must appear on the date and time designated by the judge.

A new RULE 1.5-1(C)(13) shall read as follows:

The 1st and 3rd Tuesday red calendar (Harnett & Johnston) of every month shall be cancelled and replaced as a rollover from the regular Monday session. Any attorney/party who has a case on the regular Monday calendar MUST be prepared to hear his/her case on the rollover Tuesday if so designated by the presiding judge.

The Chief District Court Judge or presiding domestic judge may add any case to the rollover Tuesday.

This rule shall take effect in Harnett County beginning January 2019.

RULE 1.5-2. BLUE CALENDAR RULES.

Rule 1.5-2(B)(1) of the local domestic rules is hereby revised to read as follows:

1. **By consent of the parties.** Consent to Blue Calendar placement is shown as follows:

- a. An Order for Setting on Red/Blue Calendar (**DR Form I**) signed in court by both parties and/or their counsel of record and the presiding judge.

Rule 1.5-1(C)(2) of the local domestic rules is hereby revised to read as follows:

2. Cases may be scheduled as Blue Calendar back-up cases as long as they meet the criteria listed in section A herein above. All parties involved in a case in a back-up position shall be available to the court when called and ready to proceed.

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ADDENDUM NO. 4

FORMS.

The following forms have been revised or added to the list of approved domestic forms for this district:

- ED Form D** Equitable Distribution Pretrial Order (Rev. 9/17)
- ED Form D (Schedules)** Equitable Distribution Pretrial Order Schedules (Rev. 9/17)
- DR Form A** Domestic Relations Calendar Request (Rev. 4/18)
- DR Form I** Order for Setting Red/Blue Calendar (Rev. 4/18)
- DR Form J** Order for Special Setting (Rev. 4/18)
- DR Form K** Pretrial Order (4/18)
- DR Form L** Interim Memorandum of Order for [] Custody [] Child Support (4/18)
Checklist Order (Rev. 4/18)